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Ontario

ONTARIO ENERGY BOARD

ONTARIO ENERGY BOARD STAFF SUBMISSION ON SETTLEMENT PROPOSAL DATED SEPTEMBER 13, 2019

EPCOR Natural Gas Limited Partnership (Southern Bruce) 2019-2028 Rates Application

EB-2018-0264

September 19, 2019

1. Background

EPCOR Natural Gas Limited Partnership (EPCOR Natural Gas LP) filed a custom incentive rate-setting application with the Ontario Energy Board (OEB) on April 11, 2019 under section 36 of the *Ontario Energy Board Act*, *1998*, S.O. 1998, c. 15, (Schedule B), seeking approval for gas distribution rates to be effective January 1, 2019 and for each following year through to December 31, 2028. The application is seeking to provide first-time natural gas service within certain communities in South Bruce.

In 2018, the OEB selected EPCOR Natural Gas LP (EPCOR Southern Bruce)[1] as the successful proponent for the South Bruce gas distribution project.[2] The process was competitive and the selection was made on the basis of a cumulative revenue requirement, forecasted attachments and an overall rate per cubic meter for the 10-year rate stability period. EPCOR Southern Bruce made these commitments as part of the Common Infrastructure Plan (CIP) process and the OEB in its decision noted that it expected that EPCOR Southern Bruce's rate application would be consistent with its CIP proposal.[3]

In the South Bruce expansion proceeding, EPCOR Southern Bruce committed to three specific criteria as part of its CIP for the 10-year rate stability period. These metrics are reflected in the current rates application. Based on the metrics, the resulting cumulative gross revenue requirement for the 10-year rate stability period is $75.583 million.

Metric	Value
Cumulative 10-year revenue requirement per unit of volume	$0.2209/m^3
Customer Years	42,569
Cumulative 10-Year Throughput Volume	342,186,741 m^3

The OEB issued Procedural Order No. 1 on May 21, 2019 in this rate application, which set out a schedule for discovery of the evidence and scheduled a settlement conference. By letter dated July 12, 2019, OEB staff advised the OEB that the parties developed a proposed issues list but were not able to reach agreement on all the items. Accordingly, the OEB cancelled the scheduled settlement conference to allow for

[1] EPCOR Natural Gas LP in this application has been referred to as EPCOR Southern Bruce in order to identify it separately from the Aylmer gas distribution utility.
[2] EB-2016-0137/0138/0139, Decision and Order, April 12, 2018
[3] *ibid*

submissions on the proposed issues list. Parties were directed to provide submissions only on the disputed issues.

In its submission on the issues list, EPCOR Southern Bruce objected to examining the appropriateness of each of the issues which is common in other cost of service proceedings before the OEB. EPCOR Southern Bruce argued that its application has largely been predetermined through the CIP process[4] and as a result the same level of regulatory scrutiny applied to conventional rate applications should not apply in this application. It therefore proposed the wording “consistent with EPCOR Southern Bruce’s CIP proposal” to replace “appropriate”. Intervenors and OEB staff argued that the test of appropriateness should be maintained as it provides the OEB the necessary and legally required flexibility to vary from the CIP, if deemed appropriate.

The OEB in its decision on the issues list noted that a number of cost parameters and rate components have been determined in the South Bruce expansion proceeding[5] and it would not be revisiting the overall commitments (with the exception of any proposed adjustments) that were made in the CIP process. Accordingly, the OEB agreed with EPCOR Southern Bruce on a number of issues and did not include “appropriate” in the final issues list. For some of the other issues that were not reviewed or underpin the CIP proposal (other revenues, cost allocation, rate design, revenue deficiency related to delay, deferral and variance accounts, and gas supply costs) the OEB retained the test of appropriateness.

In Procedural Order No. 3, the OEB rescheduled the settlement conference. A settlement conference was held on August 21 and 22, 2019. EPCOR Southern Bruce, Anwaatin Inc. (Anwaatin) Industrial Gas Users Association (IGUA), School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC), collectively, the “Parties” participated in the settlement conference. OEB staff also participated but is not a party to the settlement.

Settlement Proposal

EPCOR Southern Bruce filed a settlement proposal on September 13, 2019. Parties reached an agreement on some of the issues. The unsettled issues will proceed to hearing. Essentially, agreement was reached on issues that were approved as part of the CIP or underpin the revenue requirement approved in the CIP such as rate base, operating, maintenance and administrative costs (OM&A) and working capital. Some other issues related to pass through costs (storage, transportation, capital contributions

[4] EB-2016-0137/0138/0139
[5] EB-2016-0137/0138/0139 Decision and Order, April 12, 2018.

to Enbridge Gas Inc.) were also settled. OEB staff further notes that unlike a typical settlement proposal, the agreement between the parties on the issues is not part of a "package". In other words, agreement on specific issues are severable.

The following summary table identifies the issues that were settled and those that will proceed to hearing

ISSUE NUMBER	STATUS
1a. OEB Directives from CIP	Settled
1b. Proposed rates consistent with CIP	No Settlement
2a. Level of planned capital expenditures	Settled
2b. Working capital allowance	Settled
2c. Recovery of capital contribution	Settled
2d. Customer connection costs	Settled
3a. Adjustment to distribution revenue for external funding and municipal tax holidays	Settled
3b. Proposed non-distribution revenue	Settled
3c. Other Revenues	No Settlement
4a. Gas supply costs	Settled
4b. OM&A costs	Settled
5a. Proposed revenue deficiency of $1.764 million	No Settlement
5b. Adjusted revenue requirement	Settled
6a,b & c. Proposed rate classes, cost allocation, rate design, revenue-to-cost ratios and rates	No Settlement
6d. Proposed service charges	Settled
7a. Common deferral and variance accounts (DVAs)	Partial Settlement
7b. Utility specific DVAs	Partial Settlement
7c. Other DVAs	Settled
7d. Federal Carbon Charge related DVAs	Settled
8a. Custom Incentive Rate-setting Plan	Settled
8b &c. Term of plan and annual adjustment	Settled
8d. Exclusion of productivity factor, stretch factor, earnings sharing mechanism and dead-band off-ramp	Settled
8e. Availability of Incremental Capital Module	No Settlement
9. Proposed scorecard	Settled
10a. Proposed January 1, 2019 effective date	No Settlement
10b. Rate rider recovery for lost revenue	No Settlement
11. Stakeholder engagement	Partial Settlement

OEB staff has reviewed the settlement proposal filed by EPCOR Southern Bruce in the context of the CIP proposal approved in the South Bruce expansion proceeding[6] and the OEB's statutory obligations. OEB staff supports the settlement of the issues (issues that are completely settled and partially settled) and is of the opinion that the settlement is in the public interest. The settlement proposal has no impact on the revenue requirement or the proposed rates as a number of issues were settled as proposed.

OEB staff has provided comments below on each of the issues as discussed in the settlement proposal.

Issue 1: Administration

a) Has EPCOR Southern Bruce complied with the OEB directives from the Common Infrastructure Plan (CIP) process (EB-2016-0137/ EB-2016-0138/ EB- 2016-0139)?

The OEB in the South Bruce Expansion proceeding noted that it expected that EPCOR Southern Bruce's rate application would be consistent with its CIP proposal.[7] While the broader application is consistent with the CIP proposal, the settlement proposal discussed the consistency of the rates application with the CIP proposal for each of the issues in the Issues List.

b) Are EPCOR Southern Bruce's proposed rates consistent with its CIP, and where there are departures are such departures appropriate?

The consistency of rates is fairly broad in nature. Since the parties were not able to reach settlement on key issues related to cost allocation and rate design, and the revenue deficiency related to delays in approval, this issue has not been settled.

Issue 2: Rate Base and Utility System Plan

a) Is the level of planned capital expenditures consistent with EPCOR Southern Bruce's CIP proposal?

In the South Bruce expansion proceeding, EPCOR Southern Bruce was not required to provide the quantum of capital expenditures that would have been used to calculate the competitive elements of the CIP process. However, the OEB in that decision did note

[6] EB-2016-0137/0138/0139 Decision and Order, April 12, 2018
[7] *ibid*

that any capital cost overruns incurred during the first ten years above the forecasted costs will not be permitted to be added to EPCOR Southern Bruce's rate base for year 11 and beyond.[8] The revenue requirement approved in the CIP did assume a certain level of rate base and capital expenditures. Parties in this proceeding accepted the level of capital expenditures over the 10-year rate stability period as presented in this application with the exception of any additional expenditures incurred to address the delay in receiving leave to construct approval. The capital expenditures to construct and maintain the distribution system during the rate stability period included in the CIP was $71.832 million.[9] This value is net of the $22 million in external funding.

Parties also agreed that the proposed rate base for 2028 including any adjustments for actual capital contributions paid to Enbridge Gas Inc. (Enbridge Gas) would form the basis for determining the rate base beginning January 1, 2029. EPCOR Southern Bruce's proposed rate base for 2028 is $54.946 million.[10] This amount may change based on the final value of the capital contribution that EPCOR Southern Bruce has to pay to Enbridge Gas.

OEB staff supports the proposed approach and confirms that the agreement is in line with the OEB decision in the South Bruce expansion proceeding.

b) Is EPCOR Southern Bruce's proposed working capital allowance during the rate stability period consistent with EPCOR Southern Bruce's CIP proposal and any proposed working capital allowance related to non-distribution costs appropriate?

In its CIP proposal, EPCOR Southern Bruce used a working capital allowance of 7.5% for its distribution related OM&A expenses in line with those allowed for electricity distributors. EPCOR Southern Bruce in its rates application has used the same factor for its non-distribution costs. Parties agreed that the proposed working capital allowance was in line with the CIP proposal and the allowance related to non-distribution costs was appropriate. OEB staff has no concerns with agreement on this issue.

c) Is EPCOR Southern Bruce's proposal for recovery of the Contribution in Aid of Construction paid to Enbridge Gas for upstream transmission reinforcement appropriate?

In order to serve the area of South Bruce, EPCOR Southern Bruce requires transportation services from Enbridge Gas. This will require a new metering station

[8] EB-2016-0137/0138/0139, Decision and Order, April 12, 2018, p.10
[9] Exh.1, Tab 2, Sch. 1, p.35.
[10] *ibid*

and reinforcement of the Owen Sound pipeline. In its application, EPCOR Southern Bruce has included an amount of $2.935 million for the meter and regulator station and an additional $2.363 million for the Owen Sound transmission reinforcement. Parties agreed that the amount was appropriate. To the extent that the actual amount defers from the amount included in rates, the variance will be captured in the Contribution in Aid of Construction Variance Account. OEB staff has no concerns with the proposed approach.

d) Is EPCOR Southern Bruce's proposal to waive new customer connection costs consistent with EPCOR Southern Bruce's CIP proposal?

EPCOR Southern Bruce proposed to provide a free threshold of 30 metres for new customer connections. Customers that exceed the threshold will be charged according to the OEB's EBO 188 guidelines. This policy is in line with Enbridge Gas' customer connection policy for the Union Gas rate zone. OEB staff has no concerns with the proposed approach and confirms that the customer connection policy is consistent with the OEB's EBO 188 guidelines.

Issue 3: Operating Revenue

a) Is EPCOR Southern Bruce's proposed Distribution Revenue during the rate stability period consistent with EPCOR Southern Bruce's CIP proposal, giving due consideration to:
   i. External funding
   ii. Municipal tax holidays

EPCOR Southern Bruce's CIP proposal did not include or consider adjustments for municipal tax holidays or external funding. EPCOR Southern Bruce will receive $22.0 million in provincial funding through Bill 32. This amount has been adjusted in the requested revenue requirement. EPCOR Southern Bruce has reduced the distribution revenue requirement, from $75.583 million as per the CIP to $58.535 million to adjust for external funding and municipal contributions.[11] Parties agreed that the adjustment to reflect external funding is appropriate. OEB staff confirms that the adjustment to reflect external funding and municipal contributions is appropriately reflected in the distribution revenue requirement.

b) Is EPCOR Southern Bruce's proposed Non-Distribution Revenue (gas supply, storage and transportation) for the rate stability period consistent with EPCOR Southern Bruce's CIP proposal?

[11] Exh.3, Tab 1, Sch. 1, p.11.

Non-distribution revenues refer to revenues that are recovered from customers for gas supply (storage, transportation and load balancing). The CIP proposal did not include gas supply costs. EPCOR Southern Bruce will be acquiring gas supply services from Enbridge Gas. EPCOR Southern Bruce has included non-distribution revenues (gas supply costs) of $27.056 million during the rate stability period.[12]

The rate under which EPCOR Southern Bruce will receive gas supply services from Enbridge Gas will be determined by the OEB in a different proceeding.[13] Parties have accepted the current forecast and actual costs will be adjusted through the appropriate deferral and variance accounts that have been agreed to in this settlement proposal. These accounts have been discussed later in the submission. OEB staff has no concerns with the proposed approach.

c) Are EPCOR Southern Bruce's proposed Other Revenues during the rate stability period consistent with EPCOR Southern Bruce's CIP proposal?

This issue will proceed to hearing. EPCOR Southern Bruce has proposed Other Revenues of $0 in its application.

Issue 4: Operating Expenses

a) Is EPCOR Southern Bruce's forecasted gas supply, transportation and storage costs and proposal for recovery of those costs for the rate stability period appropriate?

The costs referred to in this issue (gas supply, storage and transportation costs) are the same as non-distribution revenues in 3(b) discussed earlier. The actual costs and the rate under which Enbridge Gas Inc. will provide service to EPCOR Southern Bruce will be determined in the leave to construct and Rate M17 proceeding, currently before the OEB.[14] The forecast costs in this application will be trued up in the respective deferral and variance accounts. Parties agreed to this approach and OEB staff has no concerns.

b) Are EPCOR Southern Bruce's OM&A costs including shared services costs consistent with EPCOR Southern Bruce's CIP proposal?

[12] Table 1-4, Exh. 1, Tab 2, Sch. 1, p.31.
[13] Enbridge Gas Inc. has filed an application with the OEB for the Owen Sound Leave to Construct and Rate M17 on August 29, 2019 (EB-2019-0183).
[14] EB-2019-0183

Typically, OM&A costs form an important component of the revenue requirement. However, the revenue requirement in this case was approved in the CIP and the OM&A costs underpinning the revenue requirement were not provided in the South Bruce expansion proceeding. EPCOR Southern Bruce assumed certain OM&A costs as part of the development of the CIP and these costs are now reflected in the current application. Since the revenue requirement has already been determined in this application, there is little value in examining OM&A costs as done in a typical cost of service application. Parties have agreed that accepting the OM&A costs including shared services costs does not imply that they are appropriate to provide the level of service and will not form the baseline for the next rebasing proceeding. OEB staff agrees with the proposed approach. The OM&A costs that support the revenue requirement as included in the CIP totals $18.360 million over the 10-year rate stability period.[15]

Issue 5: Revenue Deficiency/Sufficiency

a) Is EPCOR Southern Bruce's proposal to recover an additional $1.764 million due to changes in construction schedule, and the associated rate rider calculation, consistent with EPCOR Southern Bruce's CIP proposal and appropriate?

In its application, EPCOR Southern Bruce has proposed to true up the $75.6 million revenue requirement to address the delay in the review of its leave to construct application.[16] The change in timeline on the construction schedule has triggered a revenue deficiency of $1.764 million on a net present value basis compared to that included in EPCOR Southern Bruce's CIP proposal. There was no agreement on EPCOR Southern Bruce's proposal to recover an additional $1.764 million over and above the CIP revenue requirement. This issue will proceed to hearing.

b) Is the adjusted revenue requirement appropriate?

Parties agreed that the distribution revenue requirement was appropriate. However, any adjustment related to Other Revenues (3c) and the revenue deficiency of $1.764 million (5a) is outstanding. The 10-year distribution revenue requirement is $58.535 million which is net of external funding and municipal contributions.[17]

[15] Exh. 1, Tab 2, Sch. 1, p.37
[16] Exhibit 6, Tab 1, Schedule 1, p.2
[17] Table 1-4, Exh. 1, Tab 2, Sch. 1, p.31.

Issue 6: Cost Allocation and Rate Design

a) Are the proposed rate classes appropriate?
b) Are EPCOR Southern Bruce's proposed cost allocation, rate design and revenue to cost ratios appropriate and consistent with EPCOR Southern Bruce's CIP proposal?
c) Are EPCOR Southern Bruce's proposed rates appropriate?

There was no agreement with respect to EPCOR Southern Bruce's proposal regarding rate classes, cost allocation, rate design, revenue-to-cost ratios and resulting rates for each of the classes. These issues will proceed to hearing.

d) Are EPCOR Southern Bruce's proposed service charges appropriate?

EPCOR Southern Bruce's service charges are essentially in line with the Aylmer franchise area (previous franchise of Natural Resource Gas Limited). The changes agreed to further align the charges with Aylmer. EPCOR Southern Bruce agreed to remove the disconnection fee and set the Not Sufficient Charge (returned cheque) to $20 in line with the Aylmer franchise area. OEB staff supports the agreed to changes.

Issue 7: Proposed Deferral and Variance Accounts

a) Are the following EPCOR Southern Bruce's proposed deferral and variance accounts appropriate?
   i. Purchased Gas Commodity Variance Account (PGCVA)
   ii. Gas Purchase Rebalancing Account (GPRA)
   iii. Storage and Transportation Variance Account Rates 1, 6 & 11 (S&TVA Rates 1 6 & 11)
   iv. Transportation Variance Account Rate 16 (TVA Rate 16)
   v. Unaccounted for Gas Variance Account (UFGVA)
   vi. Greenhouse Gas Emissions Administration Deferral Account (GGEADA)
   vii. Federal Carbon Charge - Customer Variance Account (FCCCVA)
   viii. Federal Carbon Charge - Facility Deferral/Variance Account (FCCFVA)
   ix. Regulatory Expense Deferral Account (REDA)

A number of the proposed deferral and variance accounts are typical to gas utilities and deal with variances in pass-through costs such as commodity, transportation and storage. These include the PGCVA, GPRA, S&TVA, TVA-Rate 16 and UFGVA. The parties agreed that these accounts are appropriate and staff has no concerns. These accounts are essentially established to track actual versus forecast costs built into rates. Similar accounts exist for other utilities such as EPCOR Aylmer and Enbridge Gas.

The other set of accounts (GGEADA, FCCCVA and FCCFVA) are related to compliance with the Greenhouse Gas Pollution Pricing Act (GGPPA) that implements the federal carbon pollution pricing system. As part of the settlement proposal, EPCOR Southern Bruce has agreed to define the above deferral and variance accounts in the same manner as that approved by the OEB in EB-2019-0101 (EPCOR Natural Gas Aylmer application to recover costs related to implementing GGPPA). OEB staff supports the proposed approach.

The last account in this section (REDA) is meant to record costs associated with participating in generic and other OEB hearings that impact the utility. The deferral account is not meant to capture costs associated with hearings triggered by EPCOR Southern Bruce. The request for this account will proceed to hearing.

b) Are the following EPCOR Southern Bruce's proposed deferral and variance accounts consistent with EPCOR Southern Bruce's CIP proposal and appropriate?
    i. Municipal Tax Variance Account (MTVA)
    ii. Energy Content Variance Account (ECVA)
    iii. Contribution in Aid of Construction Variance Account (CIACVA)
    iv. External Funding Variance Account (EFVA)

<u>Contribution in Aid of Construction Variance Account (CIACVA)</u>

The CIACVA is meant to capture the variance in capital contribution paid to Enbridge Gas built into rates (Issue 2c) and the actual capital contribution amounts that will be paid to Enbridge Gas. Parties agreed to the establishment of this account on the understanding that early connecting customers will not subsidize later connecting customers and that each class of customers will be treated in an equitable manner without regard to timing of connection. OEB staff supports the proposed approach as it treats all customers in an equitable manner. In other words, EPCOR Southern Bruce will recover lower amounts of capital contribution in the initial years as there will be fewer customers and recover the balance in later years when more customers are connected to the system. This will ensure that rates are not high for initial customers and all customers are treated equally, the ones connecting early and later customers.

<u>External Funding Variance Account (EFVA)</u>

As noted earlier, EPCOR Southern Bruce will received $22 million in provincial funding through Bill 32. The purpose of the EFVA is to record the difference in timing and quantum of external funding versus EPCOR Southern Bruce's current forecast. The account will record the net present value of the carrying cost in the difference between when EPCOR Southern Bruce has forecast it will receive the funds and when funds are actually received. Parties agreed that the base line for determining any value to be captured in the EFVA will be as per Exhibit 2, Tab 1, Schedule 1, Section 2.2, Table 2-3 of the evidence. OEB staff has no concerns with the proposed approach.

The issue of whether the MTVA and ECVA are appropriate will proceed to hearing.

b) What other deferral and variance accounts are required?

In the November 21, 2018 Federal Economic Statement, the Finance Minister of Canada tabled plans for a tax incentive program, the *Accelerated Investment Incentive* (AII), which provides for accelerated tax deductions through the Capital Cost Allowance (CCA) on eligible capital assets. The AII allows for an increase in CCA deductions in the year of acquisition on eligible capital assets acquired after November 20, 2018. The AII does not change the total CCA deductions allowed to be claimed for an asset, but accelerates the timing of the claim so that the CCA deduction is larger in the first year of acquiring an asset than prior to the AII program.

By way of letter dated July 25, 2019, the OEB directed all rate regulated utilities to record the impact of CCA rule changes in the appropriate deferral and variance accounts for the period November 21, 2018 until the effective date of the utility's next cost-based rate order.[18] Accordingly, EPCOR Southern Bruce in the settlement proposal has agreed to establish an Accelerated CCA Income Taxes Variance Account to record the income tax impact from the difference between the CCA rates used in the income taxes payable calculation in this application and the accelerated CCA rates as enacted under Bill C-97, should EPCOR Southern Bruce claim accelerated CCA. EPCOR Southern Bruce has not claimed the accelerated CCA on eligible capital property in its application. OEB staff supports the proposed approach and agrees with the draft accounting order included in the settlement proposal.

d) Should EPCOR Southern Bruce's proposed Federal Carbon Charge and related deferral and variance accounts be addressed in this application or as a separate stand-alone application?

[18] OEB letter of July 25, 2019 – Accounting Direction Regarding Bill C-97.

As noted earlier, the proposed Federal Carbon Charge and related deferral and variance accounts have been addressed in this application. The accounts are set up as per the OEB's Decision for the EPCOR Aylmer franchise area.

Issue 8: Incentive Rate Setting Proposal

a) Is EPCOR Southern Bruce's proposed Custom Incentive Rate-setting (Custom IR) plan during the rate stability period consistent with EPCOR Southern Bruce's CIP proposal?

Parties agreed that EPCOR Southern Bruce's Custom IR plan for the rate stability period was consistent with the CIP proposal. The details of the Custom IR plan are provided in the settlement proposal.

In the South Bruce expansion proceeding, the OEB determined that there should be inflationary adjustments to capital and OM&A costs during the rate stability period.[19] In order to compare competing proposals, the OEB directed proponents to use the same inflation rate. The inflation factor used by EPCOR Southern Bruce in determining its revenue requirement was 1.27%. This inflation adjustment has been removed from the revenue requirement calculated by EPCOR Southern Bruce for each of the years during the rate stability period in this application. EPCOR will apply the actual inflation to the OM&A portion of the fixed and delivery charge each year. For the remaining portion of the distribution charges, EPCOR will apply the 1.27% inflation factor used in the CIP proposal. For ease of calculation, EPCOR Southern Bruce has proposed to use actual inflation (2-factor input price index) against 31.4% of the distribution charges for each rate class and 1.27% for the remaining distribution charge (68.6%). OEB staff has no concerns with the agreed to approach. OEB staff notes that EPCOR Southern Bruce used 31.6% of the distribution charge in its evidence. However, this was corrected to 31.4% in response to an OEB staff interrogatory.[20]

Parties agreed to the Y-factor treatment of pass-through costs that are consistent with the rate-setting mechanisms for other gas utilities (Enbridge Gas and EPCOR Aylmer). OEB staff has no concerns with the pass-through costs identified in the settlement proposal. For the Z-factor mechanism, the materiality threshold has been established at

[19] EB-2016-0137/38/39, Decision on Preliminary Issues and Procedural Order No. 8, August 22, 2017, p.8.
[20] Response to OEB staff IR#41.

$50,000. OEB staff notes that this is consistent with the Z-factor threshold for the EPCOR Aylmer operations.

Parties did not agree to Y-factor treatment of costs associated with participation in generic proceedings which is related to the establishment of REDA. The issue of REDA will proceed to hearing.

b) Is the proposed 10-year term for the Custom IR plan consistent with EPCOR Southern Bruce's CIP proposal?

Parties agreed that the 10-year term for the Custom IR plan was consistent with the CIP proposal. In the South Bruce expansion proceeding, the OEB determined a rate stability period of 10 years.[21] This is consistent with the 10-year term of the Custom IR plan. However, agreement on the term of the Custom IR plan does not constitute agreement on whether the starting date for the 10 years should be January 1, 2019. The effective date is addressed under Issue 10.

c) Is EPCOR Southern Bruce's proposed annual adjustment mechanism consistent with EPCOR Southern Bruce's CIP proposal?

The annual adjustment mechanism has been addressed in part (8a) of this submission.

d) Is the exclusion of:
    i. A productivity and stretch factor consistent with EPCOR Southern Bruce's CIP proposal?
    ii. An earnings sharing mechanism consistent with EPCOR Southern Bruce's CIP proposal?
    iii. An earnings dead-band off-ramp consistent with EPCOR Southern Bruce's CIP proposal?

Parties agreed that the exclusion of a productivity factor, stretch factor, earnings sharing mechanism and earnings dead-band off-ramp were consistent with the CIP. As part of the CIP, proponents accepted a number of long-term risks that are not typical in other regulated rate-setting frameworks. EPCOR has assumed the forecast risk for the 10-year rate stability period. If EPCOR is unable to attach the forecasted number of customers, it will not be able to recover the revenue deficiency for the 10-year rate stability period in subsequent years. Similarly, if there are any capital cost overruns

[21] EB-2016-0137/38/39, Decision on Preliminary Issues and Procedural Order No. 8, August 22, 2017.

incurred during the first 10 years, the utility is not permitted to add the additional costs to rate base in year 11.[22] If there are any capital cost underruns, it will accrue to the benefit of the utility.

OEB staff agrees with the evidence of EPCOR Southern Bruce that the competitive nature of the CIP has ensured that productivity improvements (productivity and stretch factor) during the Custom IR term have been captured in the final revenue requirement approved by the OEB.[23] The nature of the risk undertaken by EPCOR Southern Bruce during the initial 10-year period and the competitive nature of the selection process has ensured that productivity improvements have been captured in the utility's proposal and ratepayers do not need the added protection through earnings sharing and an earnings dead-band off-ramp. It is up to the utility to manage its operations within the revenue requirement approved in the CIP and enjoy any benefits that it may accrue.

e) Is EPCOR Southern Bruce's request for availability of an Incremental Capital Module consistent with EPCOR Southern Bruce's CIP proposal?

Parties did not agree whether EPCOR Southern Bruce's request for availability of an Incremental Capital Module was consistent with the CIP. The OEB in its decision on the Issues List (p.13) noted:

> The OEB agrees that it is in scope of the proceeding to consider whether the request for an ICM is consistent with the CIP. This consideration can take into account the OEB's policies with respect to ICMs.

In its submission on the issues list, OEB staff submitted that the ICM and Advanced Capital Module mechanisms were not available for utilities setting rates under Custom IR.[24] OEB staff agrees that this issue should proceed to hearing.

Issue 9: Score Card

a) Is EPCOR Southern Bruce's proposed Score Card appropriate?

In response to OEB staff interrogatory 5, EPCOR Southern Bruce agreed to add two additional metrics (total cost per customer per year and total cost per km. of distribution pipe) in line with the metrics approved in the Enbridge Gas amalgamation

[22] EB-2016-00137/38/39, Decision and Order, April 12, 2018, pgs. 9-10.
[23] Exhibit 10, Tab 1, Schedule 1, p.3.
[24] Handbook for Utility Rate Applications, October 13, 2016, p.27

decision.[25] OEB staff has reviewed the proposed scorecard and agrees with the amendments.

Issue 10: Implementation

a) Is EPCOR Southern Bruce's proposal for a January 1, 2019 effective date consistent with EPCOR Southern Bruce's CIP proposal?

Parties did not agree whether a January 1, 2019 effective date was consistent with the CIP. In its decision on the issues list, the OEB determined that the effective date was established in the CIP. Although a specific 10-year rate stability period was selected for comparing the competing proposals, a specific start date was not determined in the CIP. OEB staff notes that as per the evidence, the first customer is expected to be connected in November 2019. Ideally, the effective date should reflect the date at which the first customer is expected to receive service.

b) Is EPCOR Southern Bruce's proposal for rate riders for recovery from and after the effective date consistent with EPCOR Southern Bruce's CIP proposal and appropriate?

The rate riders referred to above relate to the $1.764 million revenue deficiency discussed earlier in Issue 5(a). Since the revenue deficiency has not been agreed to, the resulting rate riders will be impacted by any adjustment to the revenue deficiency. OEB staff agrees that this matter should proceed to hearing as it is tied to Issue 5(a).

Issue 11: Stakeholder Engagement

a) Has EPCOR Southern Bruce effectively engaged with and sought input from key stakeholders and First Nations and Métis communities?

All of the parties except Anwaatin have agreed that EPCOR Southern Bruce has effectively engaged with key stakeholders. There is no agreement with respect to EPCOR's engagement with First Nations and Métis communities. To the extent that Anwaatin has any specific concerns with respect to First Nations and Métis communities' interests, these can be addressed in a hearing.

[25] EB-2017-0306/0307 Decision and Order, August 30, 2018.

Oral vs. Written Hearing

In its cover letter to the settlement proposal, EPCOR Southern Bruce has proposed a written hearing to deal with the unsettled issues. IGUA in a letter submitted on September 17, 2019 requested an oral hearing on the unsettled issues. IGUA noted that EPCOR Southern Bruce had based its cost allocation proposal on judgement and in order to facilitate achievement of its customer connection forecast. IGUA submitted that the allocation judgement had not been tested and the proposed revenue-to-cost ratios would require cross-subsidization from customers represented by IGUA. Considering that the rates set in this proceeding will persist for a decade, IGUA submitted that it should be afforded a full opportunity to understand and test EPCOR Southern Bruce's proposals.

With respect to EPCOR Southern Bruce's proposal to recover an additional $1.764 million related to a delay in receiving leave to construct approval, IGUA submitted that it is necessary to understand and challenge the basis for the requested increase and an oral hearing would provide parties with a more complete basis upon which to argue their positions.

OEB staff is of the view that there is sufficient information on the record for the OEB to make a determination on the issues subject to written submissions. For example, alternate revenue-to-cost ratios are available in interrogatory responses and the rationale for or against a cross-subsidy can be made in written arguments. OEB staff recognizes however that IGUA represents current and future customers of EPCOR Southern Bruce, and to the extent that further testing of the applicant's proposal would assist the OEB in making a determination of this matter, a limited oral hearing on this matter alone is not an unreasonable path forward.

With respect to the additional $1.764 million revenue deficiency, the breakdown of the revenue deficiency and the components that constitute the revenue deficiency have been provided in the evidence. If parties wish to dispute specific components of the revenue deficiency, there is sufficient information on the record to make arguments.

For these reasons, OEB staff submits that a written hearing on the unsettled issues is appropriate subject to OEB staff's comments above on cost allocation.

– All of which is respectfully submitted –